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Letter dated 1 December 2016 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

I have the honour to forward to you the concept note for the high-level open debate of the Security Council on the theme "Preventing catastrophe: a global agenda for stopping the proliferation of weapons of mass destruction by non-State actors", which will be held on 15 December 2016 (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Román **Oyarzun**
Ambassador
Permanent Representative

16-21223 (E) 071216

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Annex to the letter dated 1 December 2016 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

Concept note on the high-level open debate of the Security Council on the theme "Preventing catastrophe: a global agenda for stopping the proliferation of weapons of mass destruction by non-State actors", to be held on 15 December 2016

I. Introduction

Spain will convene a high-level open debate of the Security Council on 15 December 2016 on how to reinforce the preventive system to avoid the humanitarian, political and economic catastrophe that the use of nuclear, chemical and biological weapons by non-State actors, particularly terrorists, would entail. The topic falls under the agenda item entitled "Non-proliferation of weapons of mass destruction". The open debate will take into account the conclusions of the report of the comprehensive review of Council resolution 1540 (2004), to be sent to the Council by the end of November 2016,[1] which will serve as the basis for a global agenda to achieve the full implementation of resolution 1540 (2004) by 2021, when the current institutional arrangements adopted by the Council will expire. The meeting will be chaired by the Minister for Foreign Affairs and Cooperation of the Kingdom of Spain, Alfonso Dastis.

II. Threat of weapons of mass destruction and non-State actors

The risk of non-State actors, particularly terrorists, using weapons of mass destruction, especially nuclear weapons, is the biggest threat to global security. It is difficult to assess the likelihood of this threat because a large-scale attack has not happened yet. However, it does not mean that it will not happen, as terrorists have shown the intent and capability to develop weapons of mass destruction and to use them. In the nuclear field, we know that there are 2,000 metric tons of usable nuclear materials (highly enriched uranium and separated plutonium) that, if not adequately protected, could fall into the wrong hands and be used by non-State actors to create havoc. The reports by the Organization for the Prohibition of Chemical Weapons (OPCW)-United Nations Joint Investigative Mechanism have provided confirmation that toxic chemicals have been used as a weapon in Syria by the Islamic State in Iraq and the Levant (ISIL), and there are new allegations that terrorists continue to or are trying to use them. OPCW has also confirmed that ISIL has used chemical weapons in Iraq and has developed a programme to make improvised chemical weapons. In the biological field, the threat is just as

[1] In its resolution 1977 (2011), the Security Council, noting that the full implementation of resolution 1540 (2004) by all States is a long-term task that will require continuous efforts at national, regional and international levels, mandated the Committee established pursuant to resolution 1540 (2004) to conduct a comprehensive review on the status of implementation of resolution 1540 (2004), including, if necessary, recommendations on adjustments to the mandate, before December 2016.

challenging: infectious biological agents are present in nature and have a broad spectrum (humans, animals and plants). Many of them are readily accessible and do not require sophisticated scientific knowledge to handle, while the cost of their development and use is low. The extent of their harm can be considerable, as they can have lethal and incapacitating effects on living organisms that might be the target of a biological attack. Such an attack not only would have devastating effects on humans, animals or plants, but could also produce major economic losses and have a wider humanitarian and social impact.

Furthermore, a specialized resource such as the Incident and Trafficking Database of the International Atomic Energy Agency (IAEA) indicates a "continuing nuclear security concern". The International Criminal Police Organization and the Nuclear Threat Initiative show that there has been a steady increase in nuclear and chemical incidents and, albeit more sporadic, incidents in the biological field.

Another factor that carries risk lies with the extraordinary and rapid advances in science and technology. Such advances create not only huge benefits for mankind, but also the potential for misuse, for example, by using information technologies to illegally transfer sensitive technology or taking advantage of the loopholes in online payment systems to move funds through jurisdictions with less effective legal frameworks to finance illicit proliferation activities. On a different note, the developments in global commercial, logistical and economic transactions make it harder for States to put in place effective controls to prevent proliferation activities and to identify the origin of the illegal transactions. This enables terrorists to take advantage of transnational criminal networks to obtain access to weapons of mass destruction. The risks and challenges brought about by advances in science and technology, in the context of the so-called "fourth industrial revolution", develop at a quicker pace than the ability of Governments to respond. It is therefore necessary to take action as soon as possible.

III. Responses by the international community

Throughout 2016, different initiatives have been undertaken to tackle the threat of proliferation of weapons of mass destruction by non-State actors. Participants at the fourth meeting of the Nuclear Security Summit, which was held in Washington, D.C., in April 2016, addressed the issue of nuclear terrorism and made it harder for terrorists to acquire nuclear materials. The 2016 International Conference on Nuclear Security of IAEA, which will be held in Vienna from 5 to 9 December, will also contribute to reinforcing international efforts in this field, including those of the Global Initiative to Combat Nuclear Terrorism and the Global Partnership, and addressing future challenges and threats to security worldwide. In the chemical field, the Open-Ended Working Group on Terrorism of the OPCW Executive Council has been engaged in studying ways to combat and prevent chemical terrorism. The work of the Joint Investigative Mechanism has also demonstrated the importance of such entities, not only to ensure accountability for those responsible for the use of chemical weapons, but also as a deterrent. In the biological field, the Eighth Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological

(Biological) and Toxin Weapons and on Their Destruction, to be held in Geneva in November, will consider, among other things, the threats posed by non-State actors and the risks of misuse inherent in the life sciences and the need not to impede the potential benefits from them. Another initiative worth mentioning is the proposal for a convention on chemical and biological terrorism, similar to the International Convention for the Suppression of Acts of Nuclear Terrorism.

In the Security Council, the main initiative in this area has been the comprehensive review of resolution 1540 (2004), which was conducted during the past two years and which will result in a report to the Council. Resolution 1540 (2004) is certainly the main instrument in this regard, as it is the only legally binding instrument that covers all three weapons of mass destruction, with a focus on preventing the proliferation of these weapons and their means of delivery and related materials to non-State actors, especially terrorists.

IV. Findings of the comprehensive review of Security Council resolution 1540 (2004)

The proliferation of weapons of mass destruction and their means of delivery continues to constitute a threat to international peace and security, and the Security Council should intensify its efforts to promote the full implementation of resolution 1540 (2004) by all States. The rapidly evolving and increasing risks of proliferation in relation to non-State actors arising from developments in terrorism and the potential for misuse arising from rapid advances in science, technology and international commerce, as well as the need to take into account these developments, is another key aspect highlighted during the review.

In the period under review, the number of legally binding measures adopted by States to prevent the proliferation of weapons of mass destruction by non-State actors has increased, especially those with regard to taking action to prohibit activities of non-State actors relating to nuclear, chemical and biological weapons and their means of delivery. Although some progress has also been made in relation to accounting, securing and export control measures, it is clear that, for many States, significant efforts remain to be taken to address gaps in these areas. It is worth noting, in particular, that fewer measures have been adopted to secure the production, use, storage and transport of materials relating to chemical and biological weapons. At the regional level, there has also been differentiated progress on the measures adopted by States depending on their local circumstances, such as the level of their industrial infrastructure and economic situation.

The Security Council, through the Committee established pursuant to resolution 1540 (2004), has been able to maintain a regular dialogue with States, in particular through visits upon invitation, where, for instance, gaps in implementation were addressed and needs for assistance identified.

Since the threat of proliferation of weapons of mass destruction by non-State actors is global, it is important that key players, such as States and international, regional and subregional organizations, are engaged in its prevention and response. In this regard, it is encouraging to see that a real network of competent officials is

developing through the designation of "1540 points of contact" by States and international organizations.

While good progress has been made in the adoption of measures to prevent the proliferation of weapons of mass destruction by non-State actors, the rate and variability of this progress confirms that accomplishing the objective of the full implementation of resolution 1540 (2004) is a long-term task that requires continuous efforts at the national, regional and international levels. It will also require sustained and intensified support from the Security Council and direct interaction with States. Continuing support will also be required from other components of the United Nations and relevant international, regional and subregional organizations.

With regard to cooperation with international and regional organizations, an even closer engagement by the Security Council to coordinate activities is needed to avoid duplication and to focus on areas most in need of action. As is evident from requests for assistance made by States, many of them need help in building their capacity to implement their obligations effectively.

Important progress has been made by the Security Council, through the 1540 Committee, in adopting a regional approach to promote action to strengthen its capacity to respond to requests for which dedicated funding support is needed.

Every effort should be made to focus direct interactions with States where they are most needed and on subjects where implementation is generally weaker, such as the implementation of the obligations to take and enforce effective measures to establish domestic controls to prevent the proliferation of weapons of mass destruction, their means of delivery and related materials (Security Council resolution 1540 (2004), para. 3), in particular the obligations in the chemical and biological areas.

The support structure for the 1540 Committee, in the interests of efficiency and effectiveness, could be strengthened, in particular in the light of its increased activities and the need to deliver better assistance to Member States.

V. Proposed issues for debate

The key objective of the high-level open debate is to reflect on the practical measures that the Security Council and the United Nations system, Members States, international organizations, relevant sectors of civil society and parliamentarians can adopt to prevent non-State actors, in particular terrorists, from accessing or using weapons of mass destruction. The open debate builds on the conclusions and recommendations of the process of the comprehensive review of resolution 1540 (2004). Participants in the open debate are encouraged to take a practical and action-oriented approach, thus creating momentum for an improvement of the effectiveness of the preventive system in combating the proliferation of weapons of mass destruction. They are also encouraged to announce specific commitments for implementing the main recommendations of the comprehensive review, including financial support for those with the capacity to do it, to push forward the global non-proliferation agenda and contribute directly to a safer world.

Issues for consideration include the following:

- The measures that Member States intend to adopt in the main areas highlighted by the comprehensive review, in particular with regard to implementation and assistance for capacity-building to prevent the proliferation of weapons of mass destruction. A reference to national reports and the adoption of voluntary national action plans in this field would be welcome;
- The announcement of assistance programmes and voluntary contributions that help to promote the global agenda for the full implementation of resolution 1540 (2004);
- On the basis of the conclusions and recommendations of the comprehensive review, participants are invited to highlight effective practices that could further the global agenda;
- The Security Council could reflect on ways to strengthen the preventive system to combat the proliferation of weapons of mass destruction by non-State actors, including by analysing how the non-proliferation architecture can be reinforced so that there is greater coordination among its components, how to enhance the work of its relevant Committees, notably the 1540 Committee, and how to carry out improved monitoring of the implementation of applicable obligations and analyses of proliferation risks;
- International, regional and subregional organizations, including the United Nations system and other relevant initiatives, could also announce the measures that they intend to take to put the global agenda in practice in order to prevent non-State actors from using weapons of mass destruction, as described in the comprehensive review. In particular, they could announce how they plan to share information and coordinate with Member States and the United Nations, how they can assist in the implementation of relevant policies and measures and how they will deliver assistance to where it is most needed;
- Discuss better ways to improve transparency and outreach as transparency is a key feature of the work of the Security Council in the twenty-first century. This brings more legitimacy to its actions and inspires more trust in the institution. If the global agenda described in the comprehensive review is to be implemented properly, notwithstanding the primary responsibility of States, it needs to be understood clearly by all relevant actors, such as international organizations and civil society, in particular industry and academia.

VI. Participation, briefs, procedural aspects and outcome

The high-level open debate will be chaired by the Minister for Foreign Affairs and Cooperation of Spain, Alfonso Dastis. The Secretary-General will brief the Security Council. On behalf of civil society, the President of the Stimson Center, Brian Finley, and the Chief Executive Officer of DHL, Frank Appel, who has been invited and is to be confirmed, will brief the Council. Under rule 39, it is expected that relevant international, regional and subregional organizations and initiatives will participate in the open debate. Participants are encouraged to deliver concise but strong and focused statements of no more than four minutes during the open

debate so that there can be an active dialogue on the global agenda to combat the proliferation of weapons of mass destruction by non-State actors, as described in the comprehensive review. Longer statements can be sent in advance to the following address: sc-1540-committee@un.org. They will be published on the web page of the 1540 Committee. An outcome of the comprehensive review is expected.